



U.S. Governmental Advisory Committee
*Independent Federal Advisors
on the North American
Agreement on Environmental Cooperation*

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Texas

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The Honorable Stephen L. Johnson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Johnson:

The Governmental Advisory Committee (GAC) to the U.S. Representative to the North American Commission for Environmental Cooperation (CEC) met on April 16-17, 2008 in Alexandria, Virginia. It is my pleasure to submit to you the following report from our meeting. The report includes advice on the four topics: 1) North American Symposia on Assessing the Environmental Effects of Trade, 2) Economic and Environmental Sustainability, 3) Trade and Enforcement: Import Safety and the CEC, and 4) the CEC 2008 Operational Plan and the Article 13 Report on *Green Building in North America*.

The meeting began with an update of U.S. priorities and the status of the draft CEC Operational Plan by Scott Fulton, Deputy Assistant Administrator for International Affairs. The GAC congratulates Deputy Assistant Administrator Fulton on his appointment and look forward to working closely with him in the future. Also in attendance were Sylvia Correa, the CEC coordinator within the Office of International Affairs, and Sue Stendenbach of the Office of Air and Radiation, who contributed to the report on the progress of our recommendations.

The GAC wishes to thank EPA for your responsiveness to our past advice and the point-by-point reports on the status of our recommendations during the last two meetings is deeply appreciated. This feedback demonstrates the high value EPA places on our advice and helps GAC members to appreciate the complexity of the national and organizational relationships within which any advice must be effectuated.

We also heard reports from Evan Lloyd, CEC Director of Programs, who participated in our joint discussions on the Operational Plan Overview and the Council Session Update. Our speakers addressing the charge questions included: Russell Smith, from the Office of the Trade Representative, Environment and Natural Resources Division; Janet Bearden, with EPA's Office of Environmental Compliance and Assurance; Alison Kinn Bennett from EPA's Office of Prevention, Pesticides and Toxics on the Article 13 Green Buildings report, and Nadtya Hong of OIA with a briefing on the Article 14/15 process.

The GAC is grateful for the presence and contributions of these people at our meeting. The information and insight they bring to our deliberations is appreciated by the committee and we believe that the value of the advice we offer is significantly enhanced by their participation.

We would also like to thank Jerry Clifford for his February 6, 2008 letter responding to our advice letter of November 19, 2007. His thoughtful and detailed response helps us to follow the progress of our recommendations and enhances our ability to provide useful advice in the future.

On a personal note, I would like to acknowledge the excellent work of Aldo Morrell of the NAC, who stepped in as interim chair at the last minute when NAC Chair Dolores Wesson was unexpectedly unable to attend. Without warning or the opportunity to prepare, Aldo did an outstanding job and I greatly appreciate the skill and diligence with which he co-chaired the joint session.

As always, we sincerely appreciate the participation from EPA's Office of International Affairs and the Office of Cooperative Environmental Management. In addition to Scott Fulton and Sylvia Correa who were mentioned earlier, Evonne Marzouk of OIA attended and contributed, as did Rafael de Leon, Mark Joyce and Oscar Carrillo from OCEM. And of course, we are grateful for the excellent administrative support we have received from staff at OCEM, particularly Nancy Bradley, Geraldine Brown, and Jannell N. Young-Ancrum.

In conclusion, we thank you for EPA's continued support of our role in advising the United States Government on the enhancement of environmental conditions throughout North America. We hope you find this advice helpful, and look forward to once again meeting with you at the next Council session June 25-26 in Ottawa, Canada, if your schedule permits.

Sincerely,



Jeffrey N. Wennberg, Chair
Governmental Advisory Committee

cc: Jerry Clifford, Acting Assistant Administrator for EPA's Office of International Affairs
Scott Fulton, Deputy Assistant Administrator for EPA's Office of International Affairs
Rafael DeLeon, Director, Office of Cooperative Environmental Management
Oscar Carrillo, Designated Federal Officer
Dolores Wesson, Chair, U.S. National Advisory Committee
Patricia Munoz, Chair, Mexican National Advisory Committee
Jane Gardner, Chair, Joint Public Advisory Committee
Adrián Vazquez, Executive Director, Commission in Environmental Cooperation
Members of the U.S. Governmental Advisory Committee:
Charles "Chip" Collette Carlos Rubinstein
John Duffy Robert Scott
Lisa Gover Carola G. Serrato
Michael Linder Ellen A. Smyth
Vincent R. Nathan, Ph.D., M.P.H. Colin Soto
Cindy Padilla

Governmental Advisory Committee (GAC)
To the U.S. Representative to the
Commission for Environmental Cooperation (CEC)

**Advice 2008-1 (April 17, 2008): Response to EPA's request on North American Symposia
on Assessing the Environmental Effects of Trade**

The CEC's Strategic Plan on Trade and the Environment calls for broadening our understanding of linkages between trade and the environment. Toward that end, the CEC has commissioned the preparation and presentation of research papers at three symposia, and a fourth was scheduled to take place shortly after our meeting. In an effort to evaluate the benefits of this approach and seek guidance on how to improve the value of the symposia to policy makers, the GAC was asked to respond to a series of questions concerning the symposia in our May meeting.

In general, GAC members have not participated in past symposia, and with the exception of the need to prepare for this discussion, have not looked at their output. Before the question was posed as part of our charge for this meeting, most GAC members were unaware that the CEC sponsored symposia. In preparation for our discussion many members reviewed the meeting materials and browsed the output documents available on the web. Members were impressed by the quality and diversity of research, and at least one member stated that he discovered studies that could have direct application to challenging policy questions and should be widely distributed.

The GAC discussion ranged from whether the symposia should be continued, to specific suggestions for improving target audience awareness of their existence and content. On the larger question of whether the series should be continued or replaced with some other means of broadening understanding, the GAC recommends that the symposia be continued. The GAC recognizes the value of the symposia and their products, despite the fact that current efforts are not reaching key audiences.

After discussing the situation with Russell Smith, from the Office of the Trade Representative, Environment and Natural Resources Division, the GAC supports the academic focus of the symposia and advises against potential efforts to refocus the symposia into policy-advocacy events. Public policy makers do not require the CEC to sponsor policy advocacy, but they do require impartial research, facts and information to guide and inform their policy deliberations.

It is the GAC's view that the symposia fail to fully achieve the objective of fostering broader understanding of the linkages between trade and the environment not because of a flaw in the approach, but because of the general lack of awareness of their existence and outputs among policy makers and target audiences. Toward that end, the GAC has a number of suggestions to improve involvement in the symposia and expand the use of their products.

The first group of recommendations focuses on increasing opportunities for creating partnerships with key organizations, groups or individuals to promote the work of the symposia. These are:

- Engage with key partners during the symposium planning stages. If the objective is to encourage the application of symposia products by national, state, regional and local jurisdictions then their representatives should be involved in the selection of symposium topics, scheduling, location and agenda. After the general topic for the symposium is selected preferred partners or co-sponsors of the symposium should be identified and approached. Russell Smith indicated that this has been done in the past, but it has understandably focused on academic institutions, through which the symposium content is produced. The concept here is to look for organizations that might use the product of

the symposium in the development of plans and policies to address the subject issue. Seeking co-sponsors and giving them some 'ownership' of the process will 1) ensure they are aware of the symposium; 2) provide an opportunity to spread the word to the individuals and organizations affiliated with the co-sponsors, and 3) ensure that the product of the symposium will address the issue in a manner that is most useful to those ultimately responsible for the related programs and policies.

- Negotiate an agreement with an international journal to publish the results of the symposium as a journal supplement and distribute to subscribers. Depending on the focus of the symposium there is likely to be one or more respected journals with broad readership with an interest in that field. The example offered by the GAC member proposing this concept was a symposium on water and health issues which arranged in advance to publish the results through a respected journal which distributed the results globally through a supplement. This produced dramatically higher awareness of the symposium product than would have been possible otherwise and delivered the product directly to the target audience.
- Hire or designate a person on the CEC staff to serve as a liaison with key national associations in all three countries. Organizations such as the American Water Works Association, the National Association of Clean Air Agencies, the National League of Cities, the Environmental Council of the States, the National Association of Counties and many others along with their Mexican and Canadian counterparts might allow some time on their meeting agendas to the CEC to announce a symposium of interest or report the results of one. The GAC also believes outreach to these organizations will provide the CEC with benefits substantially beyond the need to improve the awareness and relevance of symposia. Finally, the GAC recognizes that trade happens throughout all three nations, not simply at the borders. Establishing relationships with national organizations will promote this perspective.
- Russell Smith asked the GAC and NAC whether we believe it would be useful to form a working group to study ways to improve the symposia. The GAC deeply appreciates the fact that Mr. Smith brought these questions to us and applauds his recognition of the need for a broader perspective on the problem. However, the GAC does not recommend the development of such a group. Beyond the foundational question of whether the symposia should be continued, the problems and their solutions are relatively straight-forward and can be identified and cataloged by outreach to key constituencies in the same manner used here. Directly soliciting comment from the folks 'on the ground' would in our view be the most efficient and effective means of identifying solutions, and would by its very nature contribute to expanding awareness of the symposia.

Finally, the CEC might seek additional channels through which to communicate these events within their existing network. Direct outreach to members of JPAC and each nation's GAC and NAC beyond the list serve should be considered.

**Governmental Advisory Committee (GAC)
to the U.S. Representative to the
Commission for Environmental Cooperation (CEC)**

**Advice 2008-2 (April 17, 2008): Response to EPA's request on Economic and
Environmental Sustainability**

The CEC has recently undertaken a new project entitled Environmental Sustainability and Competitiveness in North America. The CEC seeks to play a role in promoting the understanding throughout North America that environmentally sustainable business practices can benefit both the environment and the bottom line. The GAC has been asked to offer comments on good examples of the principle within the business community, identify organizations or individuals that could serve as good partners in the effort, suggest industries or sectors where the benefits of environmental sustainability would be most useful, and suggest ways the three governments can cooperate to promote the environmental and economic benefits of the sustainable business model.

During the joint session with the NAC on the first day of the meeting we participated in a broad discussion of what environmental sustainability means and how the industry representatives on the NAC viewed its principles and benefits. The GAC also enjoyed the presentation by NAC member Dennis Aigner of the University of California, who summarized a review of reports and studies documenting the connection between application of an environmental sustainability business model and economic success. The GAC appreciates and recognizes the perspective and experience offered by the members of our sister-committee and encourages the United States Government to embrace their advice on this question.

The GAC's advice on the question of promoting the environmentally sustainable business model centers on the final question, concerning potential government actions. The GAC does suggest that the building sector might be a useful early focus. The recently published Article 13 report, *Green Building in North America*, is an excellent starting point for illustrating how a business' physical plant can benefit both environment and economics. Furthermore, driven by awareness, demand and economics the building design and construction industry appears poised for transformation. The leap from producing a sustainable product to using sustainable practices is a short one.

On the question of government actions, the GAC recommends the following:

- While many corporate executives and board are embracing the environmental sustainability ethic, the ultimate success of the model often depends upon the degree to which the workforce accepts and embraces the new direction. There are numerous instances of highly respected companies being the subject of worker health, safety and environmental enforcement actions because line-level workers were ignorant of or ambivalent about regulatory requirements. Given that embracing a sustainable business model is entirely voluntary, how much harder will the task be to infuse this ethic across the organization? Governments may be able to play a role in offering or enabling effective worker training to shift the emphasis from compliance to sustainability.
- The three national governments and no doubt each state or provincial government offers some version of an "environmental excellence award." Many of these awards recognize precisely the principles of interest here, and recipients often represent a broad range of industries and economic sectors. The GAC does not believe the CEC should replicate these efforts, but with a modest investment of resources should be able to catalog and

centralize access to these case studies. The GAC suggests that the U.S. Government propose that the CEC create a web page or site with a search capability and convenient links to these existing case studies and promote the site as a multi-sector, multi-jurisdiction one stop shop for examples and information about successful sustainable businesses across North America.

The GAC recommends that the three countries convene a ministerial-level meeting or conference to recognize the economic value of sustainability. The meeting could combine presentation of academic studies with recognition of industry leaders in a three-nation event. Such an event could not only raise awareness of the issue but also of the CEC as the convening organization.

**Governmental Advisory Committee (GAC)
to the U.S. Representative to the
Commission for Environmental Cooperation (CEC)**

**Advice 2008-3 (April 17, 2008): Response to EPA's request on Trade and Enforcement,
Import Safety and the CEC**

The GAC received a briefing on the need, purpose and progress of the new CEC initiative on import safety by Janet Bearden during the joint session on the first day of the meeting. Advice is sought regarding information sharing among sub-national jurisdictions, measures of effectiveness, other means of achieving the desired results and whether the issue itself warranted continued effort on the part of the Enforcement Working Group.

The GAC appreciates the challenges facing customs and other border inspectors, and the multiple missions they must serve. We also recognize that within the universe of potential threats posed by illegal imports, non-compliant products or banned substances are rarely viewed as the most critical. However, the probability that such shipments will arrive at North American ports of entry is extremely high and as a result so is the potential for harm to public health, environmental health and the economy. Preventing the shipment from leaving its home port is the best strategy, but failing that, stopping it at the border is often the only effective remaining measure. The GAC offers the following suggestions in response to the questions posed:

- The GAC recommends that this issue should continue to be a priority for the CEC.
- Once the databases are linked, protocols established and information is being shared, the need for a North America standard of non-compliance will be critical. With a continental standard, a clearinghouse of non-compliant products can be created accessible by all countries, states, provinces and other jurisdictions.
- To begin the program, a pilot should be created focusing on limited product lines and operating at the five major border crossings between Canada, Mexico and the U.S. (Windsor/Detroit; Juarez/El Paso; Tijuana/San Diego; Monterey/Laredo-San Antonio and Vancouver/Seattle). Initial product lines could be small engines and ozone depleting chemicals, since these two lines already have consistent non-compliance standards across all three countries.
- Border jurisdictions at pilot crossing would enter into mutual aid agreements fashioned after existing emergency response agreements. These agreements would prescribe protocols for federal, state and local agencies on both sides of the border for communications, response and mutual aid in the event a non-compliant shipment is discovered or suspected.
- The inspector training program is very important and the online approach is creative, and, we expect, an effective response to the requirement that inspectors spend as much time as possible in the field. The GAC remains concerned that effective training for all purposes (non-compliant products, hazardous wastes, illegal drugs, weapons, etc.) requires a certain amount of off-line and hands-on experience. The GAC believes that additional staff and funding should be provided to these agencies to ensure that a credible amount of paid

‘classroom’ training is available to all inspectors.

- In lieu of a near-term solution to the “maximize time in the field” requirement, ensuring that new recruits have proper instruction in the identification of non-compliant products is even more critical. The CEC should facilitate and encourage formal training of new recruits to ensure that they possess minimal competencies before being assigned to the field. The GAC also recommends that the U.S. Government lead by example in this regard, and foster a closer working relationship between the EPA and Customs with EPA providing support for Customs in the training of new recruits. For examples of how this might work, the GAC suggests the model offered by the Good Neighbor Environmental Board might be instructive. (See the tenth report of the Good Neighbor Environmental Board, “*Environmental Protection and Border Security on the U.S.-Mexico Border*,” Section 3, “Hazardous Materials Crossings.”)
- The GAC recommends that cross-training between nations be a part of this program. The CEC can play a critical role in encouraging and enabling joint and cross-training between agencies and nations.
- The GAC recommends that some standard measure of progress be developed for use by all three nations. A record of the number of non-compliant shipments intercepted is one measure, but the best indicator would be some measurement of the number of non-compliant products within a country. If this could be determined or estimated in some consistent way it could be tracked over time as the best indicator of the program’s success.
- The Hazardous Waste Task Force (HWTf) has completed a crosswalk of each nation’s HW data elements with United Nations HW codes. The Task Force will pilot an electronic government-to-government information exchange for a HW consent process, perhaps in 2009. This fall, a Crossing the Border guidance document is expected to be finalized. The GAC supports these initiatives and encourages pursuit of a pilot program for tracking trans-boundary HW shipments with Radio Frequency Identification (RFID).
- Finally, while this is not a recommendation appropriate for the Enforcement Working Group, the GAC believes the CEC can play a constructive role in addressing the issue of demand for non-compliant products. Some shipments fail to meet the standards without the knowledge or approval of the importer, but some are imported with full knowledge that the product does not comply with national or international regulations. Reducing this ‘demand’ for non-compliant products has the double benefit of preventing the export and reducing the demands on the inspectors at the borders. Toward this end the CEC could 1) investigate which retailers, importers or industry associations are already operating programs toward this end; 2) seek partners among these leadership businesses and facilitate an international effort to generate supply chain pressure on overseas manufacturers and exporters of these products, and 3) acknowledge these leadership businesses in some appropriate fashion.

**Governmental Advisory Committee (GAC)
to the U.S. Representative to the
Commission for Environmental Cooperation (CEC)**

**Advice 2008-4 (April 17, 2008): 2008 CEC Operational Plan and the Article 13 Report on
Green Building in North America**

Operational Plan: The members of the GAC had an opportunity to review the 2008 Operational Plan prior to our meeting and a brief opportunity to discuss it in April. Generally speaking, the GAC has noticed a significant improvement in the plan's organization and noted the incorporation of a number of GAC recommendations from earlier communications. Attention to the Three Pillars organizational goals has improved significantly, and the Activity Map on page 10 and the Meeting Strategic Objectives chart on page 11 were much appreciated.

We understand that the recommendation to show a graphical schedule of all fifteen projects depicting their life – past, present and intended future – is under development and may be available for the 2009 plan. We also noted that statements of benefits and measures of success are only partially included, and generally using highly qualitative terms. The GAC hopes this is also a work in progress.

The GAC is at a loss to understand why the web site continues to represent pre-Puebla organization despite repeated requests for an overhaul. Once again the GAC recommends that the web site and its content relative to the CEC, its goals, objectives and organization be overhauled and brought up to date.

The GAC also recommends that public notice of all work group meetings be posted on the site and updated regularly. Work Group documents should also be posted as downloadable links so the public may follow the progress of the workgroups without the need to personally participate in their deliberations.

Article 13 Report on Green Building in North America: The GAC applauds the highly anticipated report on Green Building in North America. This report not only illustrates that which is being done and can be done to dramatically reduce the 'footprint' of our built environment, it makes 18 specific recommendations that, if implemented, would enhance the achievement of that vision.

The GAC recognizes the importance of CEC Article 13 studies. Controversies over earlier reports could have jeopardized the continued use of this valuable tool. The *Report on Green Building in North America* demonstrates that Article 13 studies can address important issues in a comprehensive and rigorous manner and enjoy broad support from the three member countries. The value of this most recent effort will ultimately be measured by the impact it has on North American building design, regulation and performance.

The GAC encourages the U.S. Government to study and wherever appropriate pursue the recommendations contained within the *CEC Report on Green Building in North America*.